

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Swartz and/or Kunihiro in view of the general teachings of the cited prior art.

Although Applicant respectfully disagrees with the Examiner's conclusion that Kunihiro or Swartz renders claims 168-245 unpatentable, Applicant herewith submits a declaration prepared pursuant to 37 C.F.R. § 1.131 to demonstrate that Applicant reduced the present invention to practice prior to the October 15, 1993 filing date of Kunihiro and the January 27, 1994 filing date of Swartz. Consequently, Kunihiro and Swartz are not proper references against the present application.

Additionally, Applicant thanks the Examiner for granting a May 23, 2002 telephone interview with the Applicant. Applicant and the Examiner discussed the patentability of the pending claims if Swartz and Kunihiro are removed as references. Regarding claims 168-198, relating to the use of a sensor to access and display or execute programming material, the Examiner stated that claims 168-198 should be allowable. Regarding claims 199-245, the Examiner directed Applicant to research two groups of patents relating to methods for accessing the Internet via a Universal Product Code. Specifically, the Examiner directed Applicant to a first group of patents assigned to "Metrologic" and a second group of patents assigned to "Intermec".

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In response to the Examiner's suggestion, Applicant performed two independent searches of the United States Patent and Trademark Office (hereinafter referred to as "USPTO") patent database. The first search included all years and utilized the search terms "Intermec" for the assignee name field and "Internet" for all fields. The search yielded eleven patents including Ronald U.S. Patent No. 5,880,867 (hereinafter referred to as "the '867 patent"), which has the earliest filing date of the eleven patents. A PCT application related to the '867 patent was filed on March 29, 1996 and the '867 patent was filed with the USPTO on January 21, 1997. Consequently, the effective filing date of the present application predates the filing dates of all eleven patents related to the Internet and assigned to a company whose name contains the term "Intermec".

The second USPTO patent database search included all years and utilized the search terms "Metrologic" for the assignee name field and "Internet" for all fields. This search yielded twenty patents including Knowles U.S. Patent No. 6,068,188 (hereinafter referred to as "the '188 patent"), filed on March 19, 1997. The '188 patent has the earliest filing date of the twenty patents, therefore, the present application predates the filing dates of all twenty patents related to the Internet and assigned to a company whose name contains the term "Metrologic".

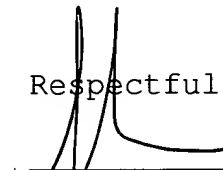
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In conclusion, Applicant submits that Applicant reduced the present invention to practice prior to the filing dates of both Kunihiro and Swartz. Furthermore, the effective filing date of the present application predates all Internet-related patents assigned to a company whose name contains "Intermec" or "Metrologic". Applicant further submits that claims 168-245 represent a novel and patentable contribution to the art and are believed to be in condition for allowance. Early and favorable action is therefore respectfully requested.

Date: October 23, 2002

Respectfully submitted,



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